



On approval of the Rules for calculation and payment of a temporary balance fee

Expired *Unofficial translation*

Order of the Minister of National Economy of the Republic of Kazakhstan dated March 25, 2021 No. 25. Registered with the Ministry of Justice of the Republic of Kazakhstan on March 27, 2021 No. 22400.

Unofficial translation

The Order was valid until 01.01.2022.

In accordance with subclause 10-1) of Article 124-6 of the Entrepreneur Code of the Republic of Kazakhstan dated October 29, 2015 **I HEREBY ORDER:**

1. To approve the attached Rules for calculation and payment of a temporary balance fee.
2. The Committee on the regulation of natural monopolies in accordance with the procedure established by law shall ensure:
 - 1) state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;
 - 2) posting this order on the Internet resource of the Ministry of National Economy of the Republic of Kazakhstan;
 - 3) within ten working days after the state registration of this order with the Ministry of Justice of the Republic of Kazakhstan, submission to the Legal Department of the Ministry of National Economy of the Republic of Kazakhstan of information about implementation of measures provided for in subclauses 1) and 2) of this clause.
3. Control over execution of this order shall be entrusted to the supervising Vice Minister of National Economy of the Republic of Kazakhstan.
4. This order shall be enforced upon expiry of ten calendar days after the date of its first official publication, it shall apply to legal relations that arose from January 1, 2021 and shall be valid until January 1, 2022.

*Minister of National Economy
of the Republic of Kazakhstan*

A. Irgaliyev

“APPROVED”

Ministry of Industry
and Infrastructural Development
of the Republic of Kazakhstan

Approved by the Order
of the Minister of National Economy
of the Republic of Kazakhstan
dated March 25, 2021 No. 25

Rules

for calculation and payment of a temporary balance fee

Chapter 1. General provisions

1. These Rules for calculation and payment of a temporary balance fee (hereinafter referred to as the Rules) have been developed in accordance with subclause 10-1) of Article 124-6 Entrepreneur Code of the Republic of Kazakhstan dated October 29, 2015 (hereinafter referred to as the Code), clause 4 of Article 12 of the Law of the Republic of Kazakhstan dated December 8, 2001 “On Railway Transport” and shall determine the procedure for calculation and payment of a temporary balance fee by the National Carrier of cargo in favor of:

1) locomotive traction operator in the passenger traffic (hereinafter referred to as the Operator);

2) National Operator of Infrastructure.

2. Basic concepts and terms used in these Rules:

1) selling price – the price of goods (work, service) used by a subject of a publicly significant market for its production and (or) sale;

2) temporary balance fee (BF) – costs of the National Carrier of Cargo aimed at supporting passenger traffic;

3) temporary balance fee (BF1) – temporary balance fee, sent to the locomotive traction operator in the passenger traffic;

4) temporary balance fee (BF2) – temporary balance fee, sent to the National Operator of Infrastructure;

5) department of the authorized body – a department of a state body carrying out management in the areas of publicly significant markets.

Other concepts and terms used in these Rules shall apply in accordance with the legislation of the Republic of Kazakhstan in the areas of natural monopolies and railway transport.

Chapter 2. Procedure for calculation of a temporary balance fee

3. Materials and calculations for determining the amount of the temporary balancing fee (BF) shall be provided by the Operator to the department of the authorized body simultaneously with information on agreeing on the price limit for locomotive traction services in passenger traffic.

4. The amount of the temporary balancing fee (BF1) shall be determined after determining the volume of subsidizing the losses/expenses of the Operator in accordance with the Methodology for determining the amount of long-term subsidizing of the locomotive traction operator’s expenses in passenger traffic on socially significant routes, approved by the Order

of the Minister of Industry and Infrastructure Development of the Republic of Kazakhstan dated 22 April 2020 No.218 (registered in the Register of State Registration of Regulatory Legal Acts as No. 20468) and the Rules for long-term subsidies for the costs of a locomotive traction operator in passenger traffic on socially significant messages, approved by the Order of the Minister of Industry and Infrastructure Development of the Republic of Kazakhstan dated April 24, 2020 No. 230 (registered in the Register of State Registration of Regulatory Legal Acts as No. 20559).

When considering the submitted information for the approval of the maximum price for locomotive traction services in the passenger traffic, the department of the authorized body requests from the state body carrying out management in the field of railway transport, information on long-term subsidizing of the locomotive traction operator in the passenger traffic from the funds of the state budget. The state body carrying out management in the field of railway transport shall provide information to the department of the authorized body within 5 (five) calendar days from the date of receipt of the request.

The amount of a temporary balance fee (BF1) shall be determined based on the total annual cost of the Operator according to the summary data on the costs of the Operator.

The amount of a temporary balance fee (BF1) shall be calculated according to the formula :

$$BF1 = (C + IP + LP) - (I + S),$$

where:

C – the costs of the Operator according to the summary data on the Operator's costs, except for depreciation charges;

IP – investment program (project), aimed at the creation of new assets, expansion, renovation, reconstruction and technical re-equipment of existing assets, excluding borrowed funds;

LP – the amount of the principal debt on loans attracted for the implementation of the investment program, to be repaid;

I – the amount of forecasted income of the Operator at selling prices for locomotive traction services;

S – amount of subsidies from the state budget.

In the event of a change in the selling price for locomotive traction services in passenger traffic, the department of the authorized body shall adjust the amount of the temporary balance fee (BF1).

5. The amount of the temporary balance fee (BF2) shall be determined on the basis of the average actual amount of income of the National Infrastructure Operator from passenger transportation over the past 5 years, within the limits of income provided for in the approved tariff estimate for regulated services of the main railway network.

6. When forming the temporary balance fee, the costs associated with the regulated locomotive traction service shall be taken into account, including:

expenses for the production of goods and the provision of services;
general and administrative expenses;
remuneration expenses;

for implementation of the investment program, agreed in the established procedure in accordance with the Rules for pricing in socially significant markets, approved by the Order of the Minister of National Economy of the Republic of Kazakhstan dated February 1, 2017 No. 36 (registered in the Register of State Registration of Regulatory Legal Acts as No. 14778) (hereinafter referred to as the Pricing Rules);

for redemption of the principal debt.

7. When forming the amount of the costs of the Operator, the costs of the Operator shall be accepted.

At the same time, the cost estimate of the Operator shall be formed in accordance with the Rules for pricing.

Chapter 3. Procedure for payment of a temporary balance fee

8. The source of payment of the temporary balance fee (BF) shall be the revenues of the National Carrier of Cargo from cargo transportation activities by railway transport in transit traffic through the territory of the Republic of Kazakhstan.

9. The planned for payment of the temporary balance fee (BF) shall be distributed by the National Carrier of Cargo on a monthly basis during a year in equal amount.

10. The payment of the temporary balance fee (BF) shall be made to the Operator and to the National Operator of Infrastructure by the National Carrier of Cargo monthly by the 10th day.